

भारतीय दन्त परिषद

DENTAL COUNCIL OF INDIA

(A STATUTORY BODY CONSTITUTED UNDER THE DENTISTS ACT, 1948)

✓ स्पीड पोस्ट/ ईमेल/ वेबसाइट
SPEED POST / E-MAIL / WEBSITE
परिपत्र / CIRCULAR

सं. डी- दाखिला(सामान्य)-2021/ 490
No.DE-Admission(Gen)-2021/

दिनांक 4 फरवरी, 2022
Dated the February, 2022

सेवा में
To

प्राचार्य, देश के सभी दंत महाविद्यालयों
All the Principals of Dental Colleges in the Country

विषय: कर्नाटक की बंगलुरु स्थित माननीय उच्च न्यायालय में दायर याचिका WP No.6559/2021 (EDN-RES) - सुरभि रॉय और अन्य बनाम कर्नाटक राज्य और अन्य - के संबंध में
WP No.6559/2021 (EDN-RES) - Surabhi Roy & Ors. Vs. State of Karnataka & Ors. filed in the Hon'ble High Court of Karnataka at Bengaluru - Regarding

राज्यपाल कार्यालय, बंगलुरु
राज्यपाल कार्यालय, बंगलुरु
संख्या: 940
दिनांक: 14/02/22

महोदय/महोदया.
Sir/Madam.

मुझे यह कहने का निर्देश हुआ है कि भारतीय दंत परिषद की कार्यकारी समिति ने 30.12.2021 को हुई अपनी बैठक में माननीय कर्नाटक उच्च न्यायालय, बंगलुरु में दायर याचिका संख्या WP 6559/2021 (EDN-RES) - सुरभि रॉय और अन्य बनाम कर्नाटक राज्य और अन्य में दिनांक 31.03.2021 के द्वारा पारित आदेश पर विचार किया जिसमें माननीय न्यायालय ने निम्नलिखित आदेश / निर्देश के साथ उक्त writ याचिका को निपटारा कर दिया है:

I am directed to say that the Executive Committee of the DCI in its meeting held on 30.12.2021 considered order dated 31.03.2021 passed by the Hon'ble High Court of Karnataka at Bengaluru in WP No.6559/2021 (EDN-RES) - Surabhi Roy & Ors. Vs. State of Karnataka & Ors. and the Hon'ble Court has disposed off the writ petition with the order / direction as:

".....In the opinion of this Court, if all the authorities take due care and caution, such situation could be avoided. The authorities should ensure that the student community is put on notice about the intake capacity of the institution and any admission in excess of the intake capacity will not be permitted and students will lose the benefit of studying in contravention to such restrictions. In this regard, this Court would urge the respondent State Government, the Karnataka State Nursing Council, the National Medical Council, the Indian Nursing Council, the Indian Dental Council, the Central Council for Indian Medicine and Central Council for Homeopathy etc. to address the issue and ensure that the institutions do not admit students in excess of the sanctioned capacity. It should be made mandatory on the part of the Education Institutions to put up on their notice board the sanctioned capacity, the names of the students admitted so that the students who thereafter approach the institutions would be aware of the fact that their admission would be illegal, unauthorized since it is beyond the permitted intake capacity. Action in this regard should be taken by all the authorities to avoid such future problems and litigations"

क.पू.उ. / Cont'd2

Receiving date - 15/2/22

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OK
15/02/2022



भारतीय दन्त परिषद

DENTAL COUNCIL OF INDIA

(A STATUTORY BODY CONSTITUTED UNDER THE DENTISTS ACT, 1948)

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2. माननीय कर्नाटक उच्च न्यायालय, बेंगलुरु द्वारा दिए गए निर्देशों को ध्यान में रखते हुए, भारतीय दंत परिषद की कार्यकारी समिति ने चर्चा और विचार-विमर्श के बाद निम्नानुसार निर्णय लिया: -

Keeping in view of the directions given by the Hon'ble High Court of Karnataka at Bengaluru, the Executive Committee of DCI after discussion and deliberation decided as under:-

All the Principals of dental colleges/institutions running approved/recognized dental courses in the country be directed for strict compliance of the directions given by Hon'ble High Court of Karnataka at Bengaluru in WP No.6559/2021 (EDN-RES).

Further, the Health/Medical Education Secretary of all the States/UT, the Director of Medical Education of all the States/UT Director of Medical Education of all the States/UT & all the Registrar of Affiliating Universities be requested to ensure strict compliance of the directions of the Court order issued by the Hon'ble High Court of Karnataka by the dental colleges.

3. भारतीय दंत परिषद की कार्यकारी समिति (30.12.2021) का उक्त निर्णय आपको जानकारी और कड़ाई से अनुपालन के लिए सूचित किया जाता है। W.P.No. 6559/2021 (EDN-RES) में माननीय कर्नाटक उच्च न्यायालय, बेंगलुरु के आदेश दिनांक 31.03.2021 की एक प्रति भारतीय दंत परिषद की वेबसाइट यानी www.dciindia.gov.in पर अपलोड की गई है और इसे संदर्भ के लिए डाउनलोड किया जा सकता है।

The aforesaid decision of the Executive Committee (30.12.2021) of DCI is communicated for your information and strict compliance. A copy of order dated 31.03.2021 of Hon'ble High Court of Karnataka at Bengaluru in WP No.6559/2021 (EDN-RES) is uploaded on DCI Website i.e. www.dciindia.gov.in and may be downloaded for ready reference.

भवदीय

संलग्नक: उपरोक्तानुसार

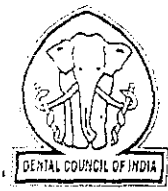
डॉ. साहू
(डॉ सव्यसाची साहा)
सचिव
भारतीय दंत परिषद

प्रतिलिपि सूचनार्थ एवं इस अनुरोध के साथ कि देश के सभी दंत महाविद्यालयों द्वारा माननीय कर्नाटक उच्च न्यायालय, बेंगलुरु के उपरोक्त आदेश दिनांक 31.03.2021 का कड़ाई से अनुपालन सुनिश्चित किया जाए:-

Copy for information and with a request to ensure strict compliance of the above Order dated 31.03.2021 of Hon'ble High Court of Karnataka at Bengaluru by the dental colleges in the country:-

1. सचिव, भारत सरकार, स्वास्थ्य और परिवार कल्याण मंत्रालय, (स्वास्थ्य विभाग - दंत शिक्षा अनुभाग), निर्माण भवन, मौलाना आजाद रोड, नई दिल्ली - 110108
The Secretary to the Govt. of India, Ministry of Health & Family Welfare, (Deptt. of Health - DE Section), Nirman Bhawan, Maulana Azad Road, New Delhi-110108

कृ.पृ.उ. / Cont'd3



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2. सभी राज्यों/संघ राज्य क्षेत्रों के स्वास्थ्य/चिकित्सा शिक्षा सचिव
The Health/Medical Education Secretary of all the States/UTs
3. सभी राज्यों/संघ राज्य क्षेत्रों के चिकित्सा शिक्षा निदेशक
The Director of Medical Education of all the States/UTs
4. दन्त महाविद्यालयों से सम्बद्ध समस्त विश्वविद्यालय के कुलसचिव
The Registrars of all the University affiliating dental colleges

डॉ. उमाङ्गा
(डॉ. सब्यसाची साहू)
सचिव
भारतीय दंत परिषद

प्रति / CC:-

1. अध्यक्ष, भारतीय दंत परिषद, नई दिल्ली
The President, Dental Council of India, New Delhi
2. प्रशासन एवं स्थापना अनुभाग(सर्वर रूम)- भारतीय दंत परिषद की वेबसाइट पर अपलोड करने के लिए
Administration & Establishment Section (Server Room) - to upload on DCI Website
3. भारतीय दंत परिषद के वैधानिक अनुभाग/अकादमिक अनुभाग/पीडीएम अनुभाग
Legal Cell / Academic Section / PDM Section
4. डीई-55-2021-कार्यकारिणी समिति (30.12.2021)/12(15)S
DE-55-2021-Executive Committee (30.12.2021)/12(15)S
5. गार्ड फाइल (दाखिला अनुभाग)
Guard File (Admission Section)

(P) 6

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 31ST DAY OF MARCH, 2021

BEFORE

THE HON' BLE MR. JUSTICE R. DEVDAS

WRIT PETITION NO. 6559 OF 2021 (EDN-RES)

BETWEEN

1. SURABHI ROY
D/O BIMAL KUMAR ROY
AGED ABOUT 22 YEARS
2. AMIT ROY
S/O RAMESH
AGED ABOUT 20 YEARS
3. SUBRATA ROY
S/O DINABANDHU ROY
AGED ABOUT 21 YEARS
4. PROSENJIT BARMAN
S/O HARIDAS BARMAN
AGED ABOUT 29 YEARS
5. KARABI ROY
S/O BIMAL KUMAR ROY
AGED ABOUT 20 YEARS
6. SUCHITHRA ROY
D/O MONGLA ROY
AGED ABOUT 21 YEARS

17/11/2021
11381

DBT/3295/19
28/7/21

Smt. Sarita
17/11/2021

Dr. Divyraj Singh

355.1

• E.C. matter.
• Matter on note to
forward to concerned
Section for reaction

- 7 . KAKULI BARMAN
D/O BHARATH BARMAN
AGED ABOUT 18 YEARS
- 8 . GITA ROY
D/O JITIN ROY
AGED ABOUT 21 YEARS
- 9 . ANINDITA BASAK
D/O DIBYENDU BASAK
AGED ABOUT 21 YEARS
- 10 . ANAJANA DAS
D/O JOGESH C H DAS
AGED ABOUT 26 YEARS
- 11 . MANIKA ROY
D/O ATUL ROY
AGED ABOUT 20 YEARS
- 12 . ARINDAM BARMAN
S/O JITHENDRANATH BARMAN
AGED ABOUT 23 YEARS
- 13 . SUBHRA ROY
D/O DINABANDHU ROY
AGED ABOUT 18 YEARS
- 14 . LATA ROY
DAUGHTER OF PURANDEB ROY
AGED ABOUT 19 YEARS
- 15 . RANJAN BARMAN
S/O RABINDRA BARMAN
AGED ABOUT 19 YEARS
- 16 . LOVELY BARMAN
D/O GURUDEB BURMAN
AGED ABOUT 18 YEARS

- 17 . KALPITA BARMAN
D/O SUNIL BARMAN
AGED ABOUT 17 YEARS
- 18 . BISHAKA DAS
D/O SANTOSH DAS
AGED ABOUT 24 YEARS
- 19 . ANJANA ROY
D/O HARANATH ROY
AGED ABOUT 19 YEARS
- 20 . LALITA BARMAN
D/O PABIN BARMAN
AGED ABOUT 20 YEARS
- 21 . APARNA SARKAR
D/O ANANDA SARKAR
AGED ABOUT 20 YEARS
- 22 . AMBIKA
D/O YALLAPPA
AGED ABOUT 18 YEARS
- 23 . MINTU BARMAN
S/O DHIRENDRANATH BARMAN
AGED ABOUT 24 YEARS
- 24 . SARASWATI SHARMA
D/O UMESH CHANDRA SHARMA
AGED ABOUT 19 YEARS
- 25 . RINKU BARMAN
D/O RABINDRANATH BARMAN
AGED ABOUT 21 YEARS

- 26 . LAXMI SHARMA
D/O UMESH CHANDRA SHARMA
AGED ABOUT 19 YEARS
- 27 . ANITA ROY
D/O AJIT ROY
AGED ABOUT 18 YEARS
- 28 . KOYEL BARMAN
D/O SUNIL BARMAN
AGED ABOUT 17 YEARS

ALL THE PETITIONERS 1 TO 28 ARE FIRST
YEAR STUDENTS IN DIPLOMA IN
GENERAL NURSING AND MIDWIFERY STUDYING
IN 'SRI ESHWARAMMAJI SCHOOL OF
NURSING (PETITIONER NO.30),
HANCHALA GATE, HUDUKULA POST,
BANGARPET TALUK,
KOLAR DISTRICT
KARNATAKA STATE

- 29 . SAPPERS VILLAGE UPLIFT WELFARE
ASSOCIATION (REGD)
HANCHALA GATE
HUDUKULA POST, BANGARAPET TALUK
KOLAR DISTRICT, REP BY ITS PRESIDENT
DR M CHANDRASHEKAR
AGED ABOUT 70 YEARS
- 30 . SRI ESHWARAMMAJI SCHOOL OF NURSING
HANCHALA GATE, HUDUKULA POST
BANGARAPET TALUK , KOLAR DISTRICT
REP BY ITS PRINCIPAL
SMT K J DEEPAKSHI
AGED ABOUT 33 YEARS

(BY SRI D S RAMACHANDRA REDDY, ADVOCATE)

...PETITIONERS

AND

- 1 . STATE OF KARNATAKA
BY ITS PRINCIPAL SECRETARY
DEPARTMENT OF MEDICAL EDUCATION
MULTISTORYED BUILDING
DR AMBEDKAR VEEDHI
BENGALURU - 560001
- 2 . KARNATAKA STATE NURSING COUNCIL
REP BY ITS REGISTRAR
NO 71 NIGHTINGALE TOWERS
A STREET 6TH CROSS
A R EXTENSION
NEAR MOVIELAND THEATRE
GANDHINAGAR
BENGALURU - 560009
- 3 . DIRECTOR OF MEDICAL EDUCATION
ANANDA RAO CIRCLE
BENGALURU - 560009
- 4 . THE SECRETARY
KARNATAKA STATE DIPLOMA IN
NURSING EXAMINATION BOARD
FIRST FLOOR, LIBRARY BLOCK
BMCRI COMPLEX, BENGALURU - 560002

....RESPONDENTS

(BY SMT PRAMODHINI KISHAN, AGA FOR R1 & R2
SMT SUMANA BALIGA, ADVOCATE FOR R3
SRI YOGESH D NAYAK, ADVOCATE FOR R4)

THIS WRIT PETITION IS FILED UNDER ARTICLE 226 OF THE
CONSTITUTION OF INDIA PRAYING TO QUASH THE ENDORSEMENT
DATED 8.3.2021 AS PER ANNEXURE-P ISSUED BY THE STATE
GOVERNMENT AND ETC.

THIS WRIT PETITION COMING ON FOR PRELIMINARY
HEARING THIS DAY, THE COURT MADE THE FOLLOWING:

ORDER

R. DEVDAS J., (ORAL):

Learned AGA waives notice for respondents No.1 and 3. Learned counsel Smt. Sumana M.Baliga accepts notice for respondent No.2. Learned counsel Sri Yogesh.D.Nayak, who is present before this Court accepts notice for respondent No.4.

2. It is the contention of petitioner students and the petitioner institution (petitioner No.30) that although in principle approval was granted for enhancement of the intake capacity from 50 to 80, consequently the petitioner No.30 institution forwarded the list of 30 additional students in view of the enhancement in the intake capacity. However the State Government has issued an endorsement dated 08.03.2021 at Annexure-P stating that it would be difficult to enhance the Intake capacity from 50 to 80.

3. Learned counsel for the petitioners has drawn the attention of this Court to the Inspection report of the Karnataka State Nursing Council as found at Annexure-E which is dated 23.09.2019, wherein it is clearly stated that there is a good physical infrastructure and all other facility in the campus and there is good and enough faculty to run the school. Further all the facilities like

clinical, community, Hostels etc. are good. The Council therefore recommended to give permission for seat enhancement from 50 to 80 for the academic year 2019-20. This was followed by a communication made by the Principal Secretary, Medical Education Department on 19.01.2021, at Annexure-L addressed to the Chief Executive Director, Karnataka Nursing and Paramedical Education (Regulation) Authority and Director of Medical Education, bringing to his notice the recommendation made by the Karnataka State Nursing Council for enhancement of the intake capacity from 50 to 80 and therefore in the interest of the students studying in the Institution, the opinion of the authorities was solicited by the State Government. It is also brought to the notice of this Court that the petitioner institution made an appeal to the Principal Secretary, Medical Education Department through a communication dated 26.02.2021 at Annexure-M bringing to the notice of the State Government that in view of the recommendation made by the Karnataka State Nursing Council, by mistake, oversight and with pressure the institution has admitted 30 additional students and completed all the admission process. Therefore, it was requested that the petitioner is prepared to surrender 30 management seats

to the Government in the next academic year and with such promise and declaration the petitioner institution requested the approval of 30 additional seats and admission of the 30 students for the academic year 2019-20. However the impugned endorsement has been issued by the State Government.

4. The learned AGA has brought to the notice of this Court that the Indian Nursing Council had written to all the State Governments vide communication dated 19.09.2019 that the Indian Nursing Council intended to phase out the existing structure and provide for "Single entry level for Nursing" in order to ensure the quality of Nursing Education. Consequently, it was directed that all the State Governments and State Nursing Councils shall ensure that the last admission for GNM Training Program will be 2020-21 academic year. The State Government/ State Nursing Council were further directed to ensure that there was no new GNM School of Nursing shall be approved from the academic year 2019-20 and no inspection for GNM school of Nursing shall be conducted for the purpose of Renewal/Restart/Enhancement of seats etc. However it is also brought to the notice of this Court that by issuing a notification dated 26.11.2020, the Indian Nursing Council has

withdrawn the earlier communication since it was directed by the Ministry of Health and Family Welfare as a part of implementation of the National Health Policy 2017 that the phasing out of GNM programs is not feasible and therefore the previous communication is withdrawn with immediate effect. The learned AGA further submits that due to the communication made by the Indian Nursing Council, the State Government had to hold on to the applications for increasing the intake capacity and it could not direct conducting of any inspection of the institutions.

5. The learned counsel for the petitioner has brought to the notice for this Court the order dated 25.11.2020 passed by a co-ordinate bench of this Court in the case of *Golden School of Nursing /vs./ The Under Secretary in W.P.No.12768/2020 and connected matters*, where this Court noticed that while the petitioner institution therein had sought for increase in intake capacity commensurate with the available infrastructure, there being no sanction of enhancement in the intake capacity, however the petitioner institution had gone ahead admitting students anticipating a favourable order of enhancement. The communication issued by the Indian Nursing Council as herein

above was also taken note of by the co-ordinate bench. The co-ordinate bench accepted the submission made on behalf of the petitioner institution that the exams being scheduled to commence, the interest of the students are required to be protected while directing the State Government to consider the application made by the institutions for enhancing the intake capacity. Consequently, this Court directed the authorities to permit the students admitted by the petitioner institutions in excess of the intake capacity to write the examinations while a direction was also given to the State Government to immediately take a decision regarding the enhancement of the intake capacity. The learned counsel therefore submits that similar relief is required to be given to the petitioner institution.

6. Having heard the learned counsel and on perusing the petition papers, this Court finds that when benefit is given to the similar circumstanced nursing schools, the benefit cannot be denied to the petitioner Nursing School. Consequently, the 4th respondent Karnataka State Diploma in Nursing Examination Board, is hereby directed to collect the examination fees and issue hall tickets to the 30 excess students who were admitted by the petitioner institution

and permit them to write the ensuing examination. However, the results shall not be announced till the State Government takes a decision in this regard. The State Government is also directed to consider the case of the petitioner institution in terms of the directions given by the co-ordinate bench of this Court in the case of *Golden School of Nursing* as noticed herein above.

7. Moreover in the impugned endorsement dated 08.03.2021 the State Government does not actually refer to the recommendation made by the Karnataka State Nursing Council nor is there any reference to whether a report was submitted by the Karnataka Nursing and Paramedical Education (Regulation) Authority and Director of Medical Education, Directorate, which was required in terms of the communication dated 19.01.2021. However certain evasive statements are made that the petitioner institution does not have the required infrastructure and the report submitted by the inspection committee is not favourable. Apparently, the statements made in the impugned endorsement dated 08.03.2021 does not bear any reference to the report submitted by the Karnataka State Nursing School, which is in fact favourable to the petitioner institution. Nevertheless the action on the part of the

State Government in not conducting the inspection may have been because of the communication made by the Indian Nursing Council. Now that the earlier communication issued by the Indian Nursing Council has been withdrawn, there can be no impediment to the State Government to cause inspection of the institution or if inspection is already conducted by the competent authorities, to consider such report and pass orders in accordance with law. Needless to observe that the fate of the students who have already been admitted to the institution and are permitted to write the examination, shall also be taken into consideration before the orders are passed by the State Government. The petitioner institution shall also be give an opportunity of being heard in terms of the proviso to sub-section (7) of Section 22 of the Karnataka Nursing and Paramedical - Act, 2012. The entire exercise shall be completed by the State Government as expeditiously as possible and at any rate within a period of six weeks from the date of receipt of certified copy of this order.

8. The decision of the Hon'ble Supreme Court in the case of *Mridul Dhar (Minor) and another /vs./ Union of India and another* reported in 2005 AIR SCW 471 may be placed by the

petitioner institution before the State Government since it is contended by the learned counsel for the petitioner that if the petitioner is prepared to surrender the management quota seats in favour of the Government, the Government should consider the proposal made by the petitioner institution which would be in the benefit of the State Government and students who could secure admission under the Government quota.

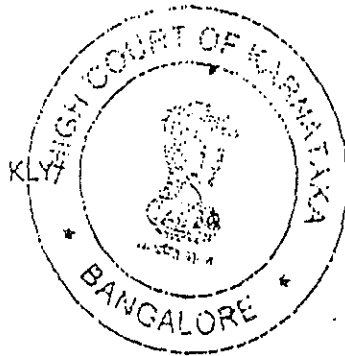
9. Before parting with this writ petition, it is necessary to notice that this Court is being flooded with these type of writ petitions wherein it is found that the education institutions, be it Nursing Schools, Paramedical and Alternative Medical Institutions are admitting the students beyond the permissible/sanctioned capacity. In the end it is the students who would bear the brunt because they are not in a position to understand their admission is illegal and unauthorized and consequently even if they have attended the classes, they would not be permitted to write the examination since their admissions are not been approved by the competent authority. In spite of these admitted position, it has been the experience of this Court that the institutions are taking the gullible students for a ride. Ultimately, to protect the interest of the

students, this Court has been passed interim orders permitting the students to write the examination and even though conditions are imposed that the results shall not be announced or that the admission of the students will be subject to the final outcome of this writ petition, in the end, the career of the students being paramount, this Court is forced to pass orders or direct the authorities to consider admitting students post facto. ^{*} In the opinion of this Court, if all the authorities take due care and caution, such situation could be avoided. The authorities should ensure that the student community is put on notice about the intake capacity of the institution and any admission in excess of the intake capacity will not be permitted and students will lose the benefit of studying in contravention to such restrictions. In this regard, this Court would urge the respondent State Government, the Karnataka State Nursing Council, the National Medical Council, the Indian Nursing Council, the Indian Dental Council, the Central Council for Indian Medicine and Central Council for Homeopathy etc. to address the issue and ensure that the institutions do not admit students in excess of the sanctioned capacity. It should be made mandatory on the part of the Education Institutions to put up on their notice board

the sanctioned capacity, the names of the students admitted so that
 the students who thereafter approach the institutions would be
 aware of the fact that their admission would be illegal, unauthorized
 since it is beyond the permitted intake capacity. Action in this
 regard should be taken by all the authorities to avoid such future
 problems and litigations.

Writ petition stands disposed of accordingly.

10. A copy of this order shall be forwarded to the Chief Secretary, Government of Karnataka, Karnataka State Nursing Council, the National Medical Council, the Indian Nursing Council, the Indian Dental Council, the Central Council for Indian Medicine and Central Council for Homeopathy.



SD/-
JUDGE

Copy

23/7/2021
 Assistant Registrar
 High Court of Karnataka
 Bangalore - 560 001

JR
 26/7/21

27/7/2021